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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/663,615	09/17/2003	Nabil N. Ghaly		3521

7590 03/09/2004

Dr. NABIL N. GHALY
14 Longwood Drive
South Huntington, NY 11746

EXAMINER

CEGIELNIK, URSZULA M

ART UNIT	PAPER NUMBER
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3712

DATE MAILED: 03/09/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/663,615	GHALY, NABIL N.	
	Examiner	Art Unit	
	Urszula M Cegielnik	3712	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-25 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____. |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Claim Rejections - 35 USC § 112

.The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-25 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1, 10, 16, and 22 recite "a player to control the motor and/or interact with the vehicle". It is not clear what structural limitations the applicant is intending to claim. Is the player to control the motor and interact with the vehicle, is the player controlling the motor only, or is the player interacting with the vehicle only?

Claim 2 recites the limitation "random elements". It is not clear what the applicant intends to claim through this recitation. Claim 24 recites similar language.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

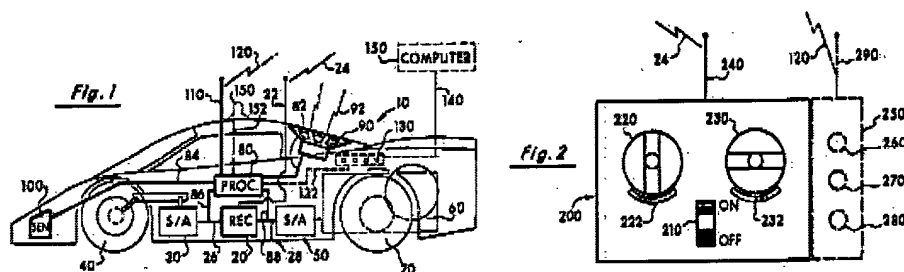
A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or

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(2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.



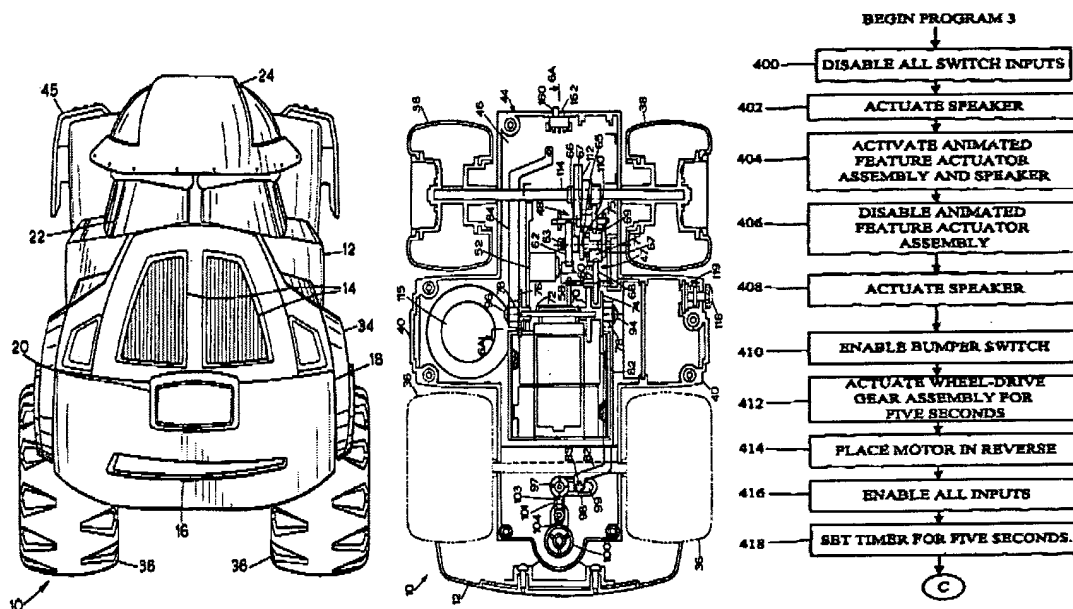
Claims 1-6, 9, 10, 11, 13, 14, 15, and 22-25 are rejected under 35 U.S.C. 102(b) as being anticipated by Collier.

Collier discloses a toy vehicle (10) comprising a vehicle chassis or frame (see Figure 1) having a plurality of wheels (40,70); a motor (30) driving at least one wheel (70) of the vehicle (10); input control means (220,230) to enable a player to control the motor (30) and/or interact with the vehicle (10), and additional means (100) to control the operation of the motor (30) independent of the input control means (220,230); a microprocessor (560); a computer memory (510) (the memory stores responses being sound effects which are responses to the user interacting with the vehicle); a software program executed on a processor (500) to control the operation of the vehicle (10); a program segment that generates interactions with the user of the vehicle (10); a program segment that controls the vehicle to operate in a plurality of states, including a first state (col. 4, lines 22-38) during which the operation of the motor (30) is independent of the input control mechanisms (220,230), and a second state (the second state

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being the activation of sensors 100, which are not the input control mechanisms under control of the user such as discussed at col. 15, lines 57-67) during which the vehicle executes one or more pre-programmed movements that are not responsive to the input control mechanisms (220,230) (col. 15, lines 57-67); the vehicle (10) shaped as a car; a radio receiver (20) mounted in the vehicle to receive signals from a transmitter unit (200); accessories can be plugged into the device to provide responses to interactions (col. 3, lines 37-40).

Claims 1, 8-10, and 22 are rejected under 35 U.S.C. 102(e) as being anticipated by Gerold et al.



Gerold et al. disclose a toy vehicle (10) comprising a vehicle chassis or frame (41) having a plurality of wheels (36,38); a motor (52) driving at least one wheel (38) of the vehicle; input control means (119,132,141,144) to enable a player to control the motor (52) and/or interact with the vehicle (10), and additional means (156) to control the operation of the motor (52) independent of

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the input control means (119,132,141,144) (col. 9, lines 24-48); a microprocessor (146); a software program executed on a processor (146) to control the operation of the vehicle (10) (col. 9, lines 24-48); a program segment that generates interactions with the user of the vehicle (col. 5, lines 33-37; col. 8, lines 8-15); a program segment that controls the vehicle to operate in a plurality of states, including a first state during which the operation of the motor (52) is independent of the input control mechanisms (col. 6, lines 65-67), and a second state during which the vehicle executes one or more pre-programmed movements that are not responsive to the input control mechanisms (col. 9, lines 24-48); a mechanism (48) to steer the vehicle (10); the vehicle is shaped as a truck (col. 3, line 2).

Allowable Subject Matter

Claims 7, 12, and 17-21 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Claim 16 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action.

Conclusion

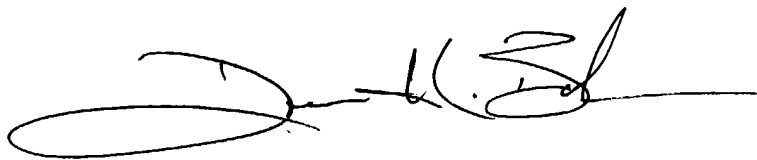
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Urszula M. Cegielnik whose telephone number is 703-306-5806. The examiner can normally be reached on Monday through Friday, from 5:30AM - 2:00PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Derris H. Banks can be reached on 703-308-1745. **The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306 for both regular and After Final communications.**

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to Customer Service at 703-306-5648.

Urszula M. Cegielnik
Assistant Examiner
Art Unit 3712

A handwritten signature in black ink, appearing to read 'D.H. Banks', with a large, stylized loop at the end.

DERRIS H. BANKS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700